

## **REMARKS**

In the Office Action mailed December 8, 2009 the Examiner objected to Claim 1, rejected Claims 1-3, 5-14 and 16-21 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Application Publication No. 2004/0122335 (hereinafter, “the Sackellares application), and rejected Claims 4 and 15 under 35 U.S.C. §103(a) as being obvious in light of the Sackerelles application and U.S. Patent Application Publication No. 2003/0195602 (hereinafter, “the Boling application). Each objection and rejection is addressed below.

### **I. Objection to Claim 1**

The Examiner stated on page 2 of the Office Action:

3. **Claim 1 is objected to because of the following informalities:** There is no antecedent basis for "the focal point". Appropriate correction is required.

Claims 1 and 12 are amended to recite an antecedent basis for “focal point.”

### **II. Rejection of Claims 1-3, 5-14 and 16-21 under 35 U.S.C. §102(b)**

The Examiner rejected Claims 1-3, 5-14 and 16-21 under 35 U.S.C. §102(e) as being anticipated by the Sackerelles application. The Applicants submit, however, that the Sackerelles patent application is not prior art. Specifically, attached to this communication (at TAB A) are signed Declarations by the Inventors Dr. Robert Savit, Dr. Ivo Drury, Dr. Dingzhou Li, and Dr. Weiping Zhou under 37 C.F.R. §1.131 and a supporting Invention Description at TAB B<sup>1</sup>, indicating reduction to practice of the presently claimed invention 1) prior to the August 27, 2003 filing date for the Sackerelles patent application, and 2) prior to the August 27, 2002 filing date for U.S. Provisional Patent Application Serial No. 60/406,063 for which the Sackerelles patent application claims priority. As the Sackerelles patent application and the patent

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<sup>1</sup> Please note that the corresponding dates for the Invention Description at TAB B have been redacted for confidentiality purposes.

application for which it claims priority are not prior art against the present application, the Applicants respectfully request withdrawal of the respective rejections.

**III. Rejection of Claims 4 and 15 under 35 U.S.C. §103(a)**

The Examiner rejected Claims 4 and 15 were rejected as being obvious in light of the Sackerelles application and the Boling application. Claims 4 and 15 are dependent upon non-obvious and non-anticipated Claims 1 and 12. As discussed in Section II of this Office Action Response, the Sackerelles application is not prior art against the current application. The Boling application fails to remedy this deficiency. As such, a *prima facie* case of obviousness has not been established. The Applicants request these rejections be withdrawn.

**V. Conclusion**

All grounds of rejection of the Office Action of April 16, 2009, have been addressed and reconsideration of the application is respectfully requested. Should the Examiner believe that a telephone interview would aid in the prosecution of this application Applicant encourages the Examiner to call the undersigned collect at (608) 662-1277.

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**TAB A**